



POLICE DEPARTMENT

July 9, 2013

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Floretta Chow
Tax Registry No. 921212
70 Precinct
Disciplinary Case No. 2011-5314

The above-named member of the Department appeared before me on April 10, 2013, charged with the following:

1. Said Police Officer Floretta Chow, assigned to the 70 Precinct, on or about and between 07/01/1998 and 07/06/2011, did knowingly associate, via personal interaction, telephone and mail correspondence, with Person A a person known to have engaged in criminal activities.

P.G. 203-10 Page 1, Paragraph 2(c) PUBLIC CONTACT – PROHIBITED CONDUCT

2. Said Police Officer Floretta Chow, assigned to the 70 Precinct, was off post on March 16, 2011 for forty (40) minutes.

P.G. 203-10 Page 1, Paragraph 5 PROHIBITED CONDUCT

The Department was represented by Jamie Moran, Esq., Department Advocate's Office, and Respondent was represented by Michael Martinez, Esq.

Respondent, through her counsel, entered a plea of Not Guilty to the subject charges. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

Respondent is found Guilty.

SUMMARY OF EVIDENCE PRESENTED

The Department's Case

The Department called Colize Holmes, Sergeant Chermaine Porter, and Sergeant Jemal Gungor as witnesses.

Colize Holmes

Holmes, a retired, 17-year New York City Transit (TA) employee whose title was "specialist operator," testified that he had an "intimate relationship" with Respondent. They started dating in 1994 and lived together in [REDACTED] for seven years. They have a son together. Their relationship ended in 2001.

Holmes met Person A in 1994 or 1995. Person A was introduced to Holmes as Respondent's father. Holmes later learned that Person A was not her natural father when Respondent told Holmes that her biological father had passed away. Holmes testified that he knew that Person A had been arrested on two occasions. Holmes learned about these arrests from Respondent within a few days after each of these arrests took place. After the first arrest, Respondent asked Holmes to bail Person A out of jail. Because Holmes was still in a romantic relationship with Respondent he purchased a bail bond for Person A. When Holmes asked Respondent why she did not personally obtain a bail bond for Person A, Respondent replied that she could not do so "because of her job."

Holmes recalled that when he met Person A, Person A had a residence in [REDACTED] but he was not living with Respondent's mother who resided elsewhere in [REDACTED]. Holmes testified that he called the Internal Affairs Bureau (IAB) Command Center and reported that Respondent was associating with Person A.

Holmes acknowledged that he has twice been convicted of crimes. His first conviction was in 1987 for cashing a bad check and his second conviction was in 2007 for Driving While Under the Influence of Alcohol (DUI). Holmes recalled that he was arrested for Driving While Intoxicated (DWI) but the DWI charge was reduced to DUI.

On cross-examination, Holmes testified that when he called IAB he provided his name. Holmes denied that he had ever made an anonymous call to IAB and that no one called IAB on his behalf. Holmes told IAB what he knew "about the properties" and about Respondent's association with Person A. Holmes denied that he had told IAB that Respondent was involved with drugs. Holmes testified that he "just wanted to call" IAB to report Respondent's association with Person A.

Holmes denied that he had called IAB because of a Family Court petition Respondent had recently filed against him. Holmes claimed that he and Respondent had "been in Family Court since 2005." Holmes asserted that although he had been awarded custody of their son, the Family Court proceeding is ongoing and that he and Respondent were scheduled to appear in Family Court later in the week. Holmes was unsure whether he called IAB during the summer of 2011 or 2012. Holmes asserted that his son was not in the car during his DWI arrest in 2007. Holmes did not serve any jail time for his conviction in 1987, which took place in Kansas.

Holmes retired from the TA after 17 years due to a disability. Holmes denied that he had told IAB that he was making the complaint because of an upcoming Family Court proceeding with Respondent. Holmes testified that he was afraid of Respondent, because he believed that "she had used her position as a police officer to her advantage."

Holmes confirmed that Respondent once had him arrested regarding an altercation that they had in front of his house and that in April, 2008, he was arrested for trespassing on public property. Holmes saw Person A occasionally during and after his relationship with Respondent. When Holmes was asked whether he and Respondent had visited with Person A on holidays, he answered "I'm sure we have, I don't recall exactly." Holmes said that he "got along" with Person A.

On redirect examination, Holmes recalled that Respondent told him that Person A was not her actual father "about six months to a year" after they met and that the trespassing charge in 2008 was dismissed.

On re-cross examination, Holmes asserted that the only time he was incarcerated was for his DUI conviction. However, Holmes confirmed that after he had a "physical altercation" with his "own [REDACTED] at the time," he was arrested and held in jail for three days. The charges were subsequently dismissed.

Upon further questioning, Holmes asserted that Respondent gave him \$5,000 in cash which he used to pay for the bail bond in order to get Person A out of jail. They went to the bail bondsman's office together and Respondent's sole purpose in having him accompany her to the bail bondsman's office was so that the bail bond would be in his name rather than in Respondent's name.

Sergeant Chermaine Porter

Porter, who has been a member of the Department for 20 years, is currently assigned to the School Safety Division. She was previously assigned to the IAB Group 32 for five years.

Porter was assigned the investigation regarding Respondent in March, 2011. The investigation had started when an anonymous caller contacted the Department and made allegations of misconduct against Respondent. Porter investigated Respondent by running a background check on her and by performing surveillance on Respondent while she was on duty.

On March 16, 2011, at 4:45 p.m., Porter observed Respondent leave her command and drive off in her personal vehicle. Porter followed her to a TD Bank on Prospect Park West. Respondent was wearing "a regular jacket and uniform cargo pants." Respondent returned to her command at "about 5:15, 5:30" p.m. Porter obtained copies of the Command Log and Interrupted Patrol Log for March 16, 2011. Neither log contained an entry regarding Respondent's absence from the command.

IAB received a second phone call regarding Respondent in May, 2011. It was not anonymous because Holmes identified himself as the caller. He told IAB that he and Respondent had a child in common and that Respondent was associating with Person A and that Person A had a criminal history. Porter investigated this allegation by obtaining the personal information that Respondent had provided to the Department. Porter learned that Respondent's mother had never been married to Person A or registered him as a domestic partner. Porter also learned that Respondent had listed her mother and two children in her employment application to the Department, but had listed her father as

being deceased. Person A was not mentioned at all in Respondent's application to the Department. Porter also learned that Person A "had been arrested numerous times starting in 1975." Porter recalled that his 1975 arrest was dismissed, but a 1999 arrest for a "gun charge" resulted in a one year jail sentence. Porter also learned that Person A was convicted in 2001 for "drug charges" which led to a period of incarceration in the Ulster County Correctional Facility and that he was later deported to Trinidad. Porter also learned that Respondent owned three properties in [REDACTED] which were acquired via transfer from Person A.

On cross-examination, Porter agreed that it was never determined who had made the anonymous call in March, 2011. Porter confirmed that the anonymous caller claimed to have interviewed a confidential informant who had alleged that Respondent was selling and transporting drugs in a black Yukon. Porter confirmed that she did not substantiate the allegation that Respondent was selling or transporting drugs. Porter agreed that Holmes never alleged that Respondent was involved in drugs. Porter confirmed that the records she obtained from Ulster County Correctional Facility showed that Respondent never visited Person A while he was incarcerated there. Porter confirmed that Person A's transfer of the three [REDACTED] properties to Respondent was done legally.

Porter confirmed that during her surveillance of Respondent on March 16, 2011, Porter never entered the 70 Precinct. Porter recalled that Respondent was assigned to roll call but Porter could not recall what Respondent's tour was that day. Porter confirmed that when an officer who is assigned to administrative duties wants to leave the stationhouse, "technically you have to get authorization from your desk officer" even if

another supervisor has given permission to the officer to leave. Porter did not interview the desk sergeant on duty in the 70 Precinct that day.

Porter could not recall the exact language in the Patrol Guide that defines criminal association but that an arrest was sufficient to establish a criminal history. Porter did not know whether an officer could associate with a person who had been arrested but was subsequently acquitted. Porter recalled that there was an exception to the criminal association rule for "family." Porter clarified that it was her understanding that this exception covered an officer's legal spouse, mother, father, brothers, sisters, and children. During Porter's investigation, she discovered that when Person A was incarcerated, he listed Respondent and her mother as people he would talk to.

Porter recalled that at Respondent's first official Department interview, Respondent stated that she had sent Person A his TA pension checks. Porter testified that after Respondent's first official Department interview, a supervisor in Porter's group called Respondent back in and told her that she could no longer have a relationship with Person A. Porter was not aware of any allegations that Respondent had disobeyed that order.

On redirect examination, Porter clarified that on March 16, 2011, she observed Respondent leaving the 70 Precinct from the front entrance.

The Department introduced into evidence a NYSID printout obtained by Porter establishing that Person A was arrested for the first time in 1975; that he was convicted in 1999 for Criminal Possession of a Weapon and sentenced to one year imprisonment; that Person A was convicted in 2001 of Criminal Possession of a Controlled Substance with Intent to Sell and sentenced to a term of three years to nine years imprisonment which led

to his incarceration in Ulster County Correctional Facility from July, 2001 until September, 2003 when he was released and placed on parole; and that Person A was deported from the United States on April 21, 2006 [Department's Exhibit (1)].

The Department also introduced into evidence a document obtained by Porter establishing that three properties were deeded from Person A to Respondent. Two residential properties were deeded in October of 2008, and one commercial property was deeded in February of 2009 (DX 2).

Finally, the Department also introduced into evidence a New York State Department of Corrections document that showed in 2001 and 2002 Respondent sent a total of \$350 in money orders to Person A for personal purchases in the Ulster County prison commissary (DX 3), and a document showing that Respondent sent a package of personal items to Person A while he was in prison in 2002 (DX 4).

Sergeant Jemal Gungor

Gungor, an 11-year member of the Department who is currently assigned to the World Trade Center Command, was assigned to the 70 Precinct from November of 2010 to July of 2011. Gungor testified that on March 16, 2011, he served as the desk officer from about 3:00 p.m. to 11:47 p.m. At 4:45 p.m. on March 16, 2011, Gungor was working at the desk. Gungor testified that he was not advised by Respondent or anyone else at that time that Respondent was leaving the 70 Precinct. Gungor reviewed his Activity Log, the Interrupted Patrol Log, and the Command Log to prepare for his testimony. Gungor testified that there were no notations in any of those logs regarding Respondent. Gungor testified that when an officer leaves the command the desk officer

is required to note whether the officer is taking a “meal” or a “personal” absence in the Interrupted Patrol Log.

On cross-examination, Gungor characterized his recollection of March 16, 2011, as “very vague, vague.” Gungor confirmed that when he spoke to IAB about that day for the first time on July 18, 2011, he told them that he didn’t “specifically remember that day.” Gungor estimated there were at least six sergeants working at the 70 Precinct as well as a number of lieutenants. Gungor agreed that in contrast to officers on patrol, an officer working inside the command could take meals and breaks according to their own schedules without necessarily having to make entries in their Activity Logs. Gungor also agreed that Respondent could have asked a supervisor to take a short break and that supervisor could have given her permission. He also agreed that, as a sergeant, it was within his power to grant permission for a short absence to go to the bank. However, Gungor was not aware whether Respondent did or did not have permission from anyone to leave on March 16, 2011.

Gungor explained that he “wrote down as much as I could” in the Interrupted Patrol Log, but that it was a busy precinct. He does not specifically remember seeing Respondent leaving or reentering the command that day. On recross examination, Gungor agreed that if an officer told him that he or she was getting a cup of coffee from the deli around the corner from the stationhouse, he probably would not make an entry in the Interrupted Patrol Log. Gungor also agreed that if he saw someone walk out the front door and walk back in shortly afterwards with a cup of coffee, he probably would not make an entry in the log.

On redirect examination, Gungor confirmed that Respondent never told him that she was leaving the command.

Respondent's Case

Respondent testified in her own behalf.

Respondent

Respondent, a 14-year member of the Department who has been assigned to the 70 Precinct for about 13 years and has been assigned to roll call for the past eight years, recalled that on March 16, 2011, she was scheduled to work a regular day tour from 7:00 a.m. to 3:00 p.m. Respondent testified that if she was still at the command at 5:00 p.m. that day, she was "probably" on overtime and that she "probably stayed behind to do some kind of reports or something that was in the office," though she could not recall if or why she was still at the command at 5:00 p.m. Respondent testified that she was unaware that she was being watched on March 16, 2011, and first found out about this surveillance at her official Department interview months later.

Respondent recalled that she had to leave the command to go to the bank that day because she had no access to her pay during the previous month due to a restraining order on her bank account. She needed cash to pay an unexpected child support payment and to pay bills. Respondent testified that she would not have left the command without getting permission to do so and without letting someone know she was leaving, but Respondent could not recall who she had told that day.

Respondent did not recall seeing Gungor at the desk at the point in time that she left the command. Respondent did not recall anyone admonishing her for being absent. Respondent testified that she did not miss any work while she was at the bank and that when she was working inside the command "you pretty much have leeway as long as you're respectful and you're doing what you're supposed to do." Respondent also testified that she would not have been expected to make an Activity Log entry or an entry in the Interrupted Patrol Log for a short absence to "go to the store" or to "grab something to eat."

Respondent testified that she grew up in [REDACTED] and was raised her mother, Person B. She never met her biological father, Person C. Respondent recalled meeting Person A when she was "four or five." Her earliest memories of him were that he would walk her to school, take her to the park, or pick her up. Respondent also recalled that she and Person A would go out to eat and that Person A "would take me out on the weekends to give my mom a break." Respondent added, "Everybody has that favorite parent, and my dad was a little more lax than my mom; she was very strict. So of course, I gravitated towards him because I wanted to go out and have fun."

Respondent recalled that Person A lived about a five-minute walk away on [REDACTED] Avenue. Respondent testified that she spent time at Person A's apartment, but that she did not have a room of her own until Person A bought a building on [REDACTED] Street. After that, Respondent would visit Person A at least once a week and sometimes stay with him for an entire weekend. Person A would drop Respondent off and pick her up from school. When Respondent got older, Person A taught her how to drive and bought Respondent her first car.

Respondent characterized Person A as her “primary caregiver.” Person A would introduce Respondent to people as his daughter and Respondent would introduce Person A as her father. [Respondent’s Exhibit (RX) A is a photograph of Person A, Respondent, and Respondent’s mother together at a restaurant when Respondent was about 11 years old.] Respondent testified that at one point she consulted with an attorney to ascertain if Person A could adopt her, but she was told that this was not possible because Respondent was already an adult.

Respondent has three children. Her eldest son Person D considers Person A to be his grandfather because at the time of his birth, she was living with Person A. Person D’s biological father was Person E, but since Respondent had no relationship with him at the time of Person D’s birth, Respondent listed “Person A” as Person D’s last name on his birth certificate because Respondent wanted him to have her “father’s name.” Person A was at the hospital when Person D was born and helped watch him when he was an infant. At one point, Respondent returned to school and Person A adjusted his work hours to accommodate babysitting Person D. Respondent testified that to this day, Person D refers to Person A as his grandfather.

Respondent recalled that when Person A was incarcerated he asked Respondent to look after the three buildings he owned in [REDACTED] for him. Respondent agreed to manage the buildings for Person A because he needed someone to “deal with the tenants and make sure that everything ran smoothly.”

Respondent confirmed that she brought Holmes with her to the bail bondman’s office because she didn’t want to compromise her position as a police officer by being on record as having paid for someone’s bail bond. Respondent recalled that Person A was

found guilty at trial, served prison time, and was released on parole. Some time after that, "immigration picked him up and held him." Respondent testified that she "got a phone call one day that he was back in Trinidad." Respondent recalled that Person A had tried to prevent his deportation, but was unsuccessful.

Respondent asserted that although she "looked after" Person A's properties while he was incarcerated, after he got out of prison, she stated that she "kept my distance and I didn't have anything to do with the properties." After Person A was deported and came to the realization that he would never be able to return to the United States, he transferred ownership of his three properties to Respondent.

Respondent testified that in 2000, Person A granted her power of attorney over all of his bank accounts and real estate (RX B). After Person A was deported, she used her power of attorney to arrange for Person A to receive his pension from the TA.

Respondent confirmed that she spoke with Person A two or three times a week on the phone after he was deported to Trinidad. Respondent visited Person A in Trinidad in order to bring Person D to stay with Person A for the summer since Person D was "getting in trouble in school and hanging out with the wrong people." Respondent visited Person A a second time when she brought her six-month old son to Person A for him to see.

Respondent testified that she first learned that IAB was concerned about her relationship with Person A at her official Department interview. Respondent recalled that she answered questions about the nature of her relationship with Person A. Respondent stated that she did not believe that she was violating the Department's criminal association policy because Person A "was my father." Respondent explained that her

understanding of the criminal association rule was that when it came to immediate family members "you didn't have to do anything unless you were directly involved."

Respondent recalled that at her second official Department interview, Lieutenant Vaughan told her that she could not have any further contact with Person A. Respondent testified that since being issued that order, she has not spoken to or visited Person A even though she does not believe that the order was a lawful one. Respondent testified that she would like to be able to have a relationship with her "father." Respondent explained that she is an only child, that Person A has no other children, and that she is the sole heir in Person A's will.

On cross examination, Respondent was shown the roll call for March 16, 2011, and she then recalled that although her scheduled tour that day was 9:30 a.m. to 6:05 p.m., she signed out at 7:45 p.m. When she was asked why her meal time was listed on the roll call as 1:00 p.m., Respondent explained that "we actually just type that on there just to give the person a meal. No one abides by that meal time that's on there." Respondent could not recall when she actually took her meal, but stated that she "would have taken my meal when I went to go to the bank." Respondent asserted that the desk officer "generally" would not record her meal period in the Interrupted Patrol Log.

Respondent confirmed that she had registered in her own name a 2003 Cadillac Escalade that Person A owned before he was deported. Respondent obtained the keys from Person A's parole officer when she picked up Person A's other property upon his deportation in 2006.

Respondent did not visit Person A while he was incarcerated at Ulster County Correctional Facility between 2001 and 2003, but she did visit him when he was being

held pending his deportation in York County, Pennsylvania in either 2005 or 2006. Respondent confirmed that she sent money and packages to Person A while he was in prison in Ulster County. She did not seek permission from the Department to send money and packages to Person A while he was in prison nor did she seek permission from the Department to visit Person A when he was being held in Pennsylvania pending his deportation.

Respondent explained that she did not list Person A on her employment application to the Department because she knew that Person A was not her biological father. However, Respondent asserted that she “didn’t know” whether her mother and Person A were ever married. Respondent confirmed that although Holmes paid for Person A’s bail bond, she paid him back for the bond afterwards.

When Respondent asserted that although she knew that Person A had been convicted of a felony, she did not know what specific crime he had been convicted of committing, she was confronted with a statement she made at her official Department interview that “he was convicted of selling drugs.” Respondent confirmed that she also knew that Person A had “pled guilty to having a firearm.”

Person A transferred his three Brooklyn properties to Respondent for no consideration and Respondent took ownership of these buildings because she believed that Person A purchased the properties “legitimately and legally from his job and pension loans and his hard work with the New York City Transit Authority.”

Respondent testified that the possibility that tenants who lived in these buildings, who knew that she was a police officer and who knew that Person A had been convicted of selling drugs, might incorrectly conclude that their relationship was a corrupt one “did

cross my mind.” Respondent testified that she still owns all three properties and that she hopes she can pass them on to her children.

FINDINGS AND ANALYSIS

Specification No. 1

It is charged that between July 1, 1998, and July 6, 2011, Respondent knowingly associated, via personal interaction, telephone and mail correspondence with Person A, a person known to have engaged in criminal activities.

The facts regarding Respondent’s relationship with Person A are largely not in dispute. Respondent acknowledged that she has closely associated with Person A ever since he became her mother’s live-in boyfriend when Respondent was a five-year-old child. Respondent also acknowledged that Person A is not her natural father and that no paternity or adoption proceeding has ever been instituted which could have resulted in him becoming her legal father. Rather, Respondent asserted that Person A is her *de facto* father because he has always acted as the only real father she has ever known.

Person A’s gifting to Respondent of the buildings and the car he owned support her claim that he considered her to be his daughter just as much as she considered him to be her father.

The Patrol Guide’s “Prohibited Contact” section specifically states that MOS may not “(k)nowingly associate with any person...(r)easonably believed to be engaged in, likely to engage in, or to have engaged in criminal activities.” This section contains no exceptions or exemptions. The question of whether a MOS who has had contact with a family member who engaged in criminal activity rises to the level of actionable

misconduct has been the subject of prior disciplinary decisions. In *Case No. 2004-79840* (Sept. 27, 2006), the Trial Commissioner recommended that a charge of criminal association be dismissed because although the Department proved that the officer had associated with his cousin who had illegally sold Viagra, the nature of their relationship with his cousin was limited to occasional contacts at family events.

Here, Respondent's attorney argued that Respondent should be found not guilty because even though Person A and Respondent are not blood relatives, their long time, close, father-daughter type of relationship constituted a "familial relationship." This argument was raised in a recent case, *Case No. 2010-3310* (Aug. 1, 2012), in which an officer was found guilty of a charge of associating with a man known to have engaged in criminal activities. The officer argued at his trial that he should be found not guilty because although the man he associated with was not his actual brother, the officer considered the man to be his brother because they had been raised together by the officer's mother who had informally adopted the man as her son when he and Respondent were very young.

Moreover, even where a blood relationship has been established, the fact that the Patrol Guide's "Prohibited Contact" section specifically states that MOS may not "(k)nowingly associate with *any person* (emphasis added)" who has engaged in criminal activities establishes that even where a "familial relationship" has been shown to exist between a MOS and a relative who has engaged in criminal activities, the existence of the "familial relationship," standing alone, does not immunize the MOS from a charge of criminal association. For example, in *Case No. 2007-83477* (Dec. 15, 2009), an officer

was found guilty of associating with a person known to have engaged in criminal activities because she socialized with her cousin who was a convicted felon.

Here, it is understandable that Respondent would want to have a continuing close relationship with the man who had helped raise her and who she considered to be her father. However, after Person A was arrested for the first time in 1975 (DX 1) Respondent was required to distance herself from him by refraining from initiating contact with him and by not offering him assistance and support. If Respondent had limited her post 1975 contact with Person A to unavoidable encounters that took place when she visited her mother or attended a family event, Respondent could have argued that such limited, unavoidable contacts did not constitute a genuine association with Person A. However, Respondent's own testimony establishes that her involvement with Person A went well beyond occasional interactions at family events.

Respondent arranged for a \$5000 bail bond so that Person A could get out of jail while a criminal charge was pending. Respondent admitted that she had Holmes take out the bond so that this Department would not know that she had actually paid for the bond. Respondent's association with Person A not only continued but expanded to include engaging in financial transactions with him after his after his 1999 conviction for Criminal Possession of a Weapon.

In 2000, Person A signed a power of attorney form (RX B) granting Respondent power over all his bank accounts and real estate. In 2001, Person A was convicted of Criminal Possession of a Controlled Substance with Intent to Sell (DX 1). Respondent acknowledged at her official Department interview that she learned that Person A had been convicted of selling drugs. Despite this awareness, when he was sentenced to prison

she sent him packages and money orders without seeking Departmental permission and she consented to his request that she take over the management of three buildings that he owned in Brooklyn while he was in prison. Finally, when it became clear that he was going to be deported, she visited him at the facility in Pennsylvania where he was being held without seeking Departmental permission and after he was deported she agreed to have the three buildings he owned deeded to her as owner for no consideration and she also took possession of his Cadillac Escalade automobile.

Respondent is found Guilty.

Specification No. 2

It is charged that on March 16, 2011, Respondent was off-post for 40 minutes. I find Respondent guilty because I credit Porter's testimony that she was outside the 70 Precinct on March 16, 2011, conducting surveillance of Respondent and that at 4:45 p.m., she saw Respondent leave the 70 Precinct, drive to a TD Bank branch and return 40 minutes later.

I also credit Gungor's testimony that he was serving as the desk officer at the 70 Precinct on March 16, 2011, at 4:45 p.m., that when an officer assigned to administrative duties such as roll call leaves the command the desk officer is required to note whether the officer is taking a "meal" or a "personal" absence in the Interrupted Patrol Log or the Command Log, and that Respondent did not notify him that she was leaving the 70 Precinct to drive to a bank and that she would be gone for about 40 minutes because if she had done so he would have made an entry documenting her absence in the Interrupted

Patrol Log and/or the Command Log and he did not make an entry in either of those logs regarding Respondent.

Respondent is found Guilty.

PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See *Matter of Pell v. Board of Education*, 34 NY 2d 222 (1974). Respondent was appointed to the Department on July 1, 1998. Information from her personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

Respondent has been found Guilty of having knowingly associated with Person A who she knew had engaged in criminal activities. Respondent has also been found Guilty of being off her post for 40 minutes without permission.

The Assistant Department Advocate (the Advocate) recommended that the penalty to be imposed on Respondent consist of the forfeiture of 25 vacation days. In support of this penalty recommendation, the Advocate cited the following three disciplinary decisions.

In *Case No. 2011-5898* (Sept. 17, 2012), a six-year officer with no prior disciplinary record forfeited 20 vacation days after pleading guilty to a charge of criminal association. In that case, the officer admitted that she had contact with a close family friend after he was arrested for selling drugs.

Also, in *Case No. 2010 1522* (July 10, 2012), a six-year officer with no prior disciplinary record forfeited 25 vacation days after pleading guilty to a charge of criminal

association. In that case, the officer admitted that after his cousin was arrested he went to the precinct and retrieved his cousin's personal items without informing anyone at the precinct that he was a UMOS.

Finally, in *Case No. 2007-83477* (Dec. 15, 2009) a five-year officer with no prior disciplinary record forfeited 20 vacation days for associating with a person known to have engaged in criminal activities in that she socialized with her cousin who was a convicted felon.

Based on the nature and extent of Respondent's association with Person A I believe a more severe penalty is warranted here than the penalties that were imposed in the three cases cited by the Advocate. Respondent's association with Person A consisted not merely of social contacts, sending him money while he was in prison, visiting him at the facility in Pennsylvania where he was being held prior to his deportation, and retrieving personal items from his parole officer. Respondent admitted that she voluntarily agreed to manage three buildings that Person A owned while he was in prison, that she subsequently agreed to have these three buildings deeded to her as owner for no consideration and that she also took possession of his Cadillac Escalade automobile.

The Department did not offer any evidence that the three buildings that Person A owned or his Cadillac constituted proceeds of drug selling and the Department did not refute Respondent's claim that Person A had a legitimate, consistent source of income from his long-time employment with the TA. Despite this, the Advocate argued that "it's ridiculous that Respondent believes that Person A was able to buy three properties" and a "Cadillac Escalade with money made from the salary at the Transit Authority."

This argument is unsupported in the record because the Advocate offered no evidence as to what Person A's TA salary was, how much money he had saved over the course of his employment, or how much he paid for the buildings and the Cadillac. Thus, the record is devoid of any evidence that Person A made these purchases with proceeds from drug sales much less that Respondent knew that he had paid for these assets with drug money.

Nonetheless, any financial transactions which take place between a police officer and a convicted drug dealer can create the appearance of impropriety and can tarnish the reputation of the Department for integrity. Since Respondent acknowledged at her official Department interview that she was aware that Person A had been convicted of selling drugs in Brooklyn, she demonstrated a complete disregard for the reputation of the Department for integrity when she agreed to manage the three buildings in [REDACTED] that Person A owned while he was in prison; when she subsequently agreed to have these three buildings deeded to her as owner for no consideration; and when she took possession of his Cadillac Escalade automobile.

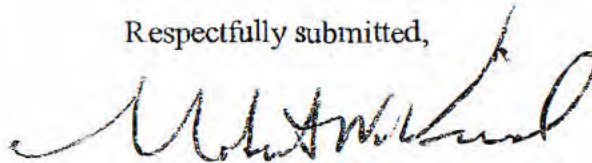
Respondent and Person A had no legal relationship and they have different last names. Thus, any residents of the three buildings that Person A owned who were aware that Respondent was a police officer and that Person A was a convicted drug dealer but who were not aware that Respondent thought of Person A as her father, could have concluded that they had a corrupt relationship.

Even though Respondent's financial transactions with Person A were not proved to be improper, their lack of a legally recognized father/daughter relationship created the appearance of impropriety. Although Respondent testified that it "crossed my mind" that observers who were not familiar with her family history might incorrectly conclude that

their relationship was a corrupt one, she went ahead with these financial transactions anyway without consulting with anyone. Thus, Respondent placed personal considerations ahead of her duty to insure that she took no actions in her personal life that could be interpreted as corrupt actions and which could have an adverse effect on the reputation of the Department for integrity.

Therefore, it is recommended that Respondent be DISMISSED from the New York City Police Department, but that her dismissal be held in abeyance for a period of one year, pursuant to Section 14-115 (d) of the Administrative Code, during which time she remains on the force at the Police Commissioner's discretion and may be terminated at anytime without further proceedings. It is further recommended that Respondent forfeit 30 vacation days.

Respectfully submitted,



Robert W. Vinal

Assistant Deputy Commissioner Trial

APPROVED



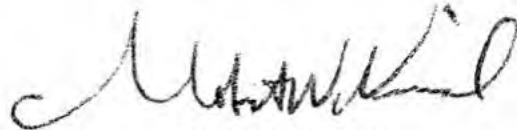
JUL 22 2013
RAYMOND W. KELLY
POLICE COMMISSIONER

POLICE DEPARTMENT
CITY OF NEW YORK

From: Assistant Deputy Commissioner - Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER FLORETTA CHOW
TAX REGISTRY NO. 921212
DISCIPLINARY CASE NO. 2011-5314

The Respondent received an overall rating of 4.0 on her 2012 performance evaluation, 4.0 on her 2011 evaluation, and 3.0 on her 2010 evaluation. She has been awarded one Excellent Police Duty medal. [REDACTED]
She has no prior formal disciplinary record and no monitoring records.

For your consideration.



Robert W. Vinal
Assistant Deputy Commissioner - Trials